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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 26 March 2004 from the Chargé d'affaires a.i. of Panama to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you the report of the Republic of Panama pursuant to Security Council resolution 1455 (2003) (see annex).

(*Signed*) Hernán **Tejeira**
Ambassador, Alternate Permanent Representative
Charge d'affaires a.i.

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Annex to the letter dated 26 March 2004 from the Chargé d'affaires a.i. of Panama to the United Nations addressed to the Chairman of the Committee

Republic of Panama

Report submitted pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

There have been no reports thus far of activities related to these groups or persons within our territory.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

When the List is received the Ministry of Foreign Affairs sends it to the authorities involved with the issue.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

When little biographical information is provided about the individual, difficulties arise when it comes to checking the names. In some cases only a first name is given.

These people's titles -- Hajj, Mullah, Maulavi and variations thereon -- are sometimes mistaken for their names.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

No individual or entity whose name appears on the List has been identified within our territory.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

At present we have no knowledge of any individual or entity not included in the List.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

Thus far no one has filed any lawsuit or complaint against our authorities on those grounds.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

The Directorate of Migration and Naturalization receives the lists and updates thereto. Thus far no one named on the List has been found to be a national or resident of our country.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in al-Qaida training camps established in your territory or in another country.

As far as we know these groups do not operate, recruit or maintain training camps in our country.

With regard to these crimes, our Penal Code states that:

Article 264 (c), paragraph 2: Chapter VI, entitled "Terrorism", establishes a penalty of 8 to 10 years in prison for:

2. Anyone who conceals, shelters, provides accommodation for or recruits persons for the execution of any of the acts described in article 264 (a) of this Code, or who joins any group that pursues that goal.

Article 264 (a). Anyone who, acting individually or as a member of or in collaboration with armed gangs, organizations or groups whose purpose is to overthrow the constitutional order or to cause a serious breach of the peace, commits acts against individuals, property, public services or communications media or transport facilities that produce alarm, fear or terror in the population or a group or sector thereof, by means of explosives, toxic substances, weapons, fire, flood or any other means of violence or mass destruction, shall be subject to a penalty of 15 to 20 years in prison.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

***Note*: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.**

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

With regard to heading III "Financial and economic assets freeze" of Security Council resolution 1455 (2003), our country has included in its legal system a legal definition of "confiscation of property", which is regulated by article 7 of Act No. 42 of 2 October 2000 establishing measures for the prevention of money-laundering and which, in turn, refers to the regulations contained in Act No. 23 of 30 December 1986, containing the Single Text on Drugs and is applicable to the offence of terrorism and to unlawful activities linked to terrorism.

It is worth noting that, in July 2003, Panama adopted Act No. 50 of 2 July 2003, article 264 (b) of which states that "Anyone who intentionally finances, subsidizes, conceals or transfers money or assets for use in the commission of any of the acts described in article 264 (a) of this Code, even without participating in the execution thereof and even if the acts are not carried out, shall be subject to 15 to 20 years in prison." Article 264 (a) was mentioned in the answer to question 8 above.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Financial Analysis Unit continuously follows up and monitors the lists issued by the United States Government and the resolutions on terrorism adopted by the United Nations Security Council.

As part of its ongoing review of the lists of terrorists, that Unit sends the updated lists to each of the oversight and monitoring agencies of the reporting entities, with express instructions to distribute them to each of the institutions they regulate; these, in turn, in accordance with the guidelines provided by the FAU and its respective oversight and monitoring agencies, must check the names on the lists and, if they find any information or account, they send a suspicious transaction report to the FAU with all the relevant documentation.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Reporting entities, whether financial (banks, trust companies, exchange and remittance offices or persons conducting exchange and remittance activities, savings and loan cooperatives, finance companies, stock exchanges, stock markets, securities firms, stock brokers and investment managers) or commercial (companies established in the Colón Free Zone, other free zones and processing zones, the National Beneficial Lottery, casinos and other establishments dedicated to gambling

and games of chance, real estate development companies and real estate brokers, and insurance and reinsurance companies and insurance brokers), are under an obligation pursuant to existing legislation (Act No. 42 of 2 October 2000 establishing measures for the prevention of money-laundering), to develop a "due diligence" and "know your customer" policy.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

Thus far there are no frozen assets of listed individuals or entities.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Thus far there have been no frozen assets of listed individuals or entities.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated;**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Pursuant to Act No. 42 of 2 October 2000, the regulated institutions are under an obligation to adopt manuals on procedure designed to prevent crime and they will have to establish what are the rules and responsibilities of each official of the institution with regard to prevention of money-laundering and of the underlying crimes (such as terrorist acts and the financing thereof).

It is also important to point out that, in accordance with existing legal norms, these procedures call for the oversight and monitoring agencies to review and authorize all activities in order for them to apply within the said institutions. The procedures cover opening of an account or initiation of a relationship with a client, updating of information which the institution has about a client, follow-up and monitoring of the account's performance and movement and mechanisms for reporting suspicious transactions to the FAU.

As regards "hawala" and similar remittance systems, financial institutions and exchange and remittance offices have been duly informed about this system and the danger of its being used for money-laundering and acts of terrorism. Another applicable norm is Act No. 48 of 23 June 2003, which regulates the operations of remittances offices.

Charities, cultural organizations and other non-profit organizations that collect and pay out funds for social and charitable purposes are regulated by the Ministry of the Interior and Justice, the Government entity responsible for granting these organizations the status of legal persons.

Since 2001, the Republic of Panama has been implementing a programme on transparency and integrity of the Panamanian financial system. The main goal of this project, which is being financed by the Inter-American Development Bank (IADB), is to support the State institutions that operate as oversight and monitoring agencies and the reporting entities of the private sector on matters concerning prevention of money-laundering and financing of terrorism.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

For people wishing to travel to our country, Panama applies the rule of restricted visas for certain nationalities on grounds of national security. Coordinated checks are carried out by the Directorate of Migration and Naturalization and the Council for Public Security and National Defence. The latter periodically publishes the names of terrorists on the lists provided by the various international security agencies and services and these are compiled in a database, making it possible to keep a record of the various restrictions on entries and exits imposed by the competent authorities.

Each visa application involving a nationality restricted for reasons of national security is checked by the Counter-Terrorism Intelligence Unit of the Council for Public Security and National Defence. The Executive Secretariat of that body subsequently makes a recommendation to the Directorate of Migration and Naturalization with respect to the approval or rejection of the request.

As regards persons who do not need a visa to enter Panama, there is closer scrutiny of entries to and exits from the country and greater emphasis is placed on an individual's "origin and profile" than on where his travel document was issued.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Yes, the names of the individuals on the stop list have been included in the immigration system list of persons barred from entering or leaving our country. Should a listed individual be spotted, the competent authorities at the airports and at all border checkpoints in general have manuals setting forth the procedure to be followed.

It is worth noting that problems may arise when checking the names of persons entering or leaving the country against those in the database, since the programmes accept specific data and most Muslim and Arab names can be spelled in a variety of ways in Spanish. This means that the immigration official must check the various spellings and combinations of names and aliases making the process somewhat time-consuming.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The List is updated whenever an international security agency adds a new name to the list of persons to watch out for.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

Thus far no one named on the List has been stopped.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

The Consulates cannot issue visas to persons of restricted nationalities without the prior approval of the corresponding national authorities. The Consulates have not received any visa application from any of the persons named on the lists.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities

(paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

In accordance with the guidelines for the submission of reports, we refer to our reply contained in paragraph 2 (a) of the expanded report on measures to combat terrorism and the financing of terrorist activities, submitted in September 2002 pursuant to Security Council resolution 1373 (2001). We would also point out once again that Panama does not manufacture weapons or ammunition.

24. Apart from article 312 of the Penal Code, what measures are in place in Panama to prevent terrorists obtaining weapons within or outside its territory, in particular small arms and light weapons? What is the legislation concerning acquisition and possession, and import and export of weapons?

As regards specific measures to prevent illicit arms trafficking, the relevant authorities of the Republic of Panama are implementing the following:

Decree No. 354 of 29 December 1948 regulating the use of weapons, ammunition and explosives.

Article 8: Shotguns and small-calibre rifles for sports target practice and their cartridges, and primers and ammunition for those purposes may be legally traded, but their sale and use are restricted under the provisions of this Decree and as required by the Police in each case.

Under our criminal law an offence involving nuclear materials is not a separate offence. However, our legislation does contain regulations that cover the issue, including the following:

- *Executive Decree No. 305 of 4 September 2002*, which states that a prior, non-automatic licence is required for the import of some potentially dangerous chemical substances, such as controlled dangerous substances or materials, and establishes other provisions.

- *Act No. 47 of 21 November 1980*, which assigns duties to various branches of the Government and establishes certain measures. Article 1 states that it is the responsibility of the Ministry of the Interior and Justice, with the assistance and collaboration of branches of the Government that have responsibilities related to the issue, in particular the security authorities, the National Port Authority and the Panama Canal Authority, to exercise control over the entry into, transport, storage, handling and exit from the Republic of Panama of explosives and other substances that pose a danger to human life and health.

- *Act No. 7 of 8 November 1971*. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

- Currently our country is studying a draft bill to amend the Penal Code, which would characterize as offences conduct that is prohibited by the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, which was adopted by Act No. 7 of 8 November 1973, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, which was adopted by Act No. 48 of 1998.

- Our country is also studying a preliminary draft of an executive decree that would establish inter-agency responsibilities in the event of an incident involving chemical, biological or radioactive agents or dangerous materials.

Likewise, our Penal Code establishes, in Book II, Title VII, Chapter VI entitled "Terrorism", article 264 (b), a penalty for anyone who finances, subsidizes, conceals or transfers assets to terrorists. (see answer 9).